

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of

CITY OF SHEPHERDSVILLE, KENTUCKY)
COMPLAINANT)

VS.)

CASE NO. 8244

KENTUCKY TURNPIKE WATER DISTRICT)
DEFENDANT)

ORDER

On May 21, 1981, the City of Shepherdsville (the "City") filed with the Commission a formal complaint against the Kentucky Turnpike Water District (the "District"), alleging that although the City has sufficient capacity to serve a certain residential area along Blue Lick Creek Road, near Shepherdsville, but within the service area of the District beyond the existing transmission and distribution lines of the District, the City and District have been unable to agree on terms by which the City will serve residents of that area.

The City's complaint asks the Commission either to direct the District to supply the residents of the area along Blue Lick Creek Road, or to "strike said area from their District pursuant to the procedure set out in KRS 74.110." In answering the City's complaint, the District asked for a public hearing, a "directive that all surcharges if any collected by the City for service within the District be forwarded to the District,"

and "a directive that the District is entitled to reasonable compensation in the event of loss of territory."

The Commission held a hearing on July 2, 1981, at which both the City and District were represented, and a Mr. Terry L. Thomas was a witness. The evidence adduced at the hearing disclosed a vexing situation, especially as there appears to be no presently acceptable (to the parties) solution to the problem that is within the jurisdiction of the Commission.

FINDINGS OF FACT

1. Mr. Terry L. Thomas, a resident of Shepherdsville, had purchased a lot just outside the City's limits in an undeveloped area within the District's service area and relied, without investigation, on the presence of a water main across the road from his property for his domestic water needs.

2. The nearby water main belongs to the City of Shepherdsville, and is there only by special permission of the District for the purpose of carrying water from a water storage tower outside the City to the City's customers inside the City limits.

3. Thomas had applied to the District for service, but had been told that the nearest District water main was about a quarter of a mile away, and that he would have to bear the cost of extension of the line to within fifty (50) feet of his property before he could receive water service to his lot. This cost was estimated to be between \$3,000 and \$6,000, and this alternative was abandoned by Mr. Thomas.

4. Thomas then approached the City which suggested that it would serve him only if the District agreed to relinquish Thomas and the owners of the eleven other lots in the same tract as customers.

5. The District refused to agree to let the City serve Thomas and his neighbors, or to relinquish a portion of its territory without conditions being imposed on such relinquishment, such proposed conditions not being material to this proceeding.

CONCLUSIONS OF LAW

1. The Commission has no jurisdiction over the City's utility services, since cities are exempted from the defined term "utilities" in KRS 278.010(3), which are regulated by the Commission under KRS 278.040 et seq.

2. The Commission's jurisdictional authority for Water Districts is set forth in KRS 74 and KRS 278, but extends only to the enforcement of said statutes and applicable Commission regulations.

3. By 807 KAR 5:066E(12), the District shall require applicants for water service to advance the cost of construction of water mains where the service requested is more than fifty (50) feet from an existing main.

4. KRS 74.110 provides that the county judge/executive is vested with the authority to change water district boundaries, and the procedure set forth in that statute does not provide for any participation therein by this Commission.

5. The Commission has no jurisdiction to order the District to do anything other than comply with KRS Chapter 278, or its regulations duly authorized thereunder.

6. The Commission finds no violations of KRS Chapter 278 or its regulations duly authorized thereunder, and therefore is unable to grant the relief prayed for by the District.

WHEREFORE, the Commission, having considered the record and being advised, dismisses the complaint.

Done at Frankfort, Kentucky, this 28th day of September, 1981.

PUBLIC SERVICE COMMISSION

Martin M. Voh
Chairman

Katherine Randall
Vice Chairman

Jim Carrigan
Commissioner

ATTEST:

Secretary